



Rule(s) Review Checklist Addendum
(This form must be filled out electronically.)

This form is to be used only if the rule(s) was/were previously reviewed, and has/have not been amended/repealed subsequent to that review.

All responses should be in **bold** format.

Document Reviewed (include title): **WAC 458-20-18801 Prescription drugs, prosthetic and orthotic devices, ostomic items, and medically prescribed oxygen.**

Date last reviewed: **4/30/98**

Current Reviewer: **Cindy Evans**

Date current review completed: **10/15/01**

Is this document being reviewed at this time because of a taxpayer or association request? (If "YES", provide the name of the taxpayer/association and a brief explanation of the issues raised in the request). **YES** ☐ **NO** ☒

Type an "x" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Briefly describe the subject matter of the rule(s): Rule 18801 explains the sales and use tax applications and exemptions for prescription drugs and various medical devices and supplies. This rule also provides a sample exemption certificate to be used to substantiate a claim for the retail sales tax exemptions discussed in this rule.

2. Related statutes, interpretive statements, court decisions, BTA decisions, and WTDs: (Excise Tax Advisories (ETAs), Property Tax Advisories (PTAs), Property Tax Bulletins (PTBs) and Audit Directives (ADs) are considered interpretive statements.)

YES	NO	
X¹		Are there any statutory changes subsequent to the previous review of this rule that should be incorporated?
	X	Are there any interpretive statements not identified in the previous review of this rule that should be incorporated? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any interpretive statements that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeal (BTA) decisions, court decisions, or



		Attorney Generals Opinions (AGOs) subsequent to the previous review of this rule that provide information that should be incorporated into this rule?
	X²	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) subsequent to the previous review of this rule that provide information that should be incorporated into the rule?
	X	Are there any changes to the recommendations in the previous review of this rule with respect to any of the types of documents noted above? (An Ancillary Document Review Supplement should be completed if any changes are recommended with respect to an interpretive statement.)

If the answer is “yes” to any of the questions above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

X¹ Chapter 75, Laws of 2001 should be incorporated into the revised rule (adding podiatrists to the list of persons who can prescribe orthotic devices).

X² The information in Determination No. 98-210, 19 WTD 109 (2000) could be used as an example in WAC 458-20-168.

3. Additional information: Identify any additional issues (other than that noted above or in the previous review) that should be addressed or incorporated into the rule. Note here if you believe the rule can be rewritten and reorganized in a more clear and concise manner.

The rule should clarify how or whether the retail sales tax and use tax exemptions available for medically prescribed oxygen (RCW 82.08.0283 and 82.12.0277) apply to oxygen delivery systems purchased by hospitals, nursing homes, and other medical care facilities.

4. LISTING OF DOCUMENTS REVIEWED: The reviewer need identify only those documents that were not listed in the previous review of the rule(s). (Use “bullets” with any lists, and include documents discussed above. Citations to statutes, interpretive statements, and similar documents should include titles. Citations to Attorneys General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).)

Statute(s) Implemented:

Interpretive statements (e.g., ETAs and PTAs):

As recommended by the last review of Rule 18801, Audit Directives 818801.2 and 818801.3 were repealed on June 30, 1998.

Court Decisions:

Board of Tax Appeals Decisions (BTAs):



Administrative Decisions (e.g., WTDs):

Determination No. 98-112, 18 WTD 383 (1999)(holding that a lease of durable medical equipment is not exempt from retail sales tax when the lessor is merely leasing the equipment to a patient pursuant to a third-party physician's prescription - the equipment was neither a prescription drug or other substance or an orthotic device).

Determination No. 98-210, 19 WTD 109 (2000)(holding that only those drugs sold and physically administered by the seller are taxable under the services and other activities classifications of the B&O tax).

Attorney General's Opinions (AGOs):

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

WAC 388-543-1000 Definitions for durable medical equipment (DME) and related supplies, prosthetics, and orthotics, medical supplies and related services.

4. Review Recommendation:

- | | |
|--------------|--|
| <u> X </u> | Amend |
| _____ | Repeal (Appropriate when repeal is not conditioned upon another rule-making action.) |
| _____ | Leave as is (Appropriate even if the recommendation is to incorporate the current information into another rule.) |
| _____ | Begin the rule-making process for possible revision. (Applies only when the Department has received a petition to revise a rule.) |

Explanation of recommendation: Provide a brief summary of your recommendation, whether the same as or different from the original review of the document(s). If this recommendation differs from that of the previous review, explain the basis for this difference.

If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, court decisions).



The previous recommendation to revise this rule continues to be appropriate. The revised rule needs to incorporate legislation, court decisions, and consolidate information now available in other documents.



5. Manager action: Date: _____

_____ Reviewed and accepted recommendation

Amendment priority:

_____ 1
_____ 2
_____ 3
_____ 4